

781 KAR 1:040. Rehabilitation technology services.

RELATES TO: KRS 151B.190, 29 U.S.C. 705(30), 723

STATUTORY AUTHORITY: KRS 151B.185, 151B.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195 requires the Executive Director, Office of Vocational Rehabilitation to promulgate administrative regulations governing the services and administration of the Office of Vocational Rehabilitation. This administrative regulation prescribes when, and under what conditions, rehabilitation technology services shall be provided, in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals.

Section 1. Definitions. (1) "Applicant" means an individual who has signed a letter or document requesting vocational rehabilitation services and who is available to complete an assessment.

(2) "Eligible individual" means an individual who has been determined by an appropriate office staff member to meet the basic conditions of eligibility for vocational rehabilitation services as defined in 34 C.F.R. 361.42.

(3) "Office" means the Office of Vocational Rehabilitation and its appropriate staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.

Section 2. Vehicle Modification. (1) Modification of a van for an eligible individual determined by an office specialist to be unable to transfer independently into and out of an automobile shall not be authorized over the maximum cost of the automobile modification.

(2) A vehicle modification costing in excess of \$5,000 shall not be provided unless the eligible individual:

(a) Completes a driver evaluation and vehicle modification assessment by an office specialist;

(b) Obtains a recommendation from an office specialist;

(c) Has a vocational objective of competitive employment; and

(d) Is within two (2) years of job placement.

(3) Vehicle modifications shall be provided to an individual who is not within two (2) years of job placement if the Director of Program Services determines that documentation exists that the modification results in a substantial cost savings to the office.

(4) The office shall not provide vehicle modifications in excess of \$5,000 for vehicles older than two (2) years or with more than 25,000 miles unless the overall condition of the vehicle justifies the modifications as attested by an office specialist..

Section 3. Upgrading and Repair of Vehicle Modification. (1) Vehicle modification upgrades and repair shall be provided for an eligible individual if needed for obtaining or maintaining employment.

(2) Upgrade or repair of vehicle modifications in excess of \$10,000 shall be provided if the Director of Program Services determines that the modification has a direct relationship to the employment goal and that failure to provide the modification precludes the successful achievement of the employment goal.

Section 4. Second Time Modifications. (1) Except as provided in this section, the office shall not provide more than one (1) vehicle modification per eligible individual.

(2) The office may approve a second time vehicle modification under the following conditions:

(a) The eligible individual has demonstrated a two (2) year continuous work history;

(b) The eligible individual's employer attests that the modification is needed to maintain employment; and

(c) The modification has met a seven (7) year Internal Revenue Service depreciation schedule from the date of first modification.

Section 5. Property Modification. (1) Permanent, nonrecoverable modification to a private home, business, or property shall be an allowable expenditure if determined by an office specialist to be essential to achieve the employment objective of the eligible individual. A direct relationship between the provision of the modification and the projected employment goal shall be demonstrated. The eligible individual shall meet economic need qualifications established in 781 KAR 1:030, Section 2. The eligible individual shall use recoverable, nonpermanent modifications if possible or cost effective.

(2) Except as provided in subsection (3) of this section, property modifications in excess of \$10,000 shall not be allowed.

(3) Property modifications in excess of \$10,000 shall be provided if the Director of Program Services determines that documentation exists that the modification has a direct relationship to the employment goal and that failure to provide the modification precludes the successful achievement of the employment goal. (17 Ky.R. 789; eff. 10-14-90; Am. 20 Ky.R. 1388; 1795; eff. 1-10-94; 21 Ky.R. 558; eff. 10-6-94; 22 Ky.R. 111; eff. 10-5-95; 2059; 23 Ky.R. 135; eff. 7-5-96; 24 Ky.R. 2433; 25 Ky.R. 82; eff. 7-13-98; 33 Ky.R. 2155; 3168; eff. 5-4-2007.)

Section 8. Self-employment Enterprises. The requirements established in this section shall be met prior to planning for self-employment for an eligible individual.

(1) An eligible individual shall undergo appropriate assessment to determine work potential, including mental and physical abilities, and interests, aptitudes, personality traits and other pertinent characteristics.

(2) An eligible individual shall participate in prevocational and small business training.

(3) An eligible individual shall obtain any required license, permit, certificate, or lease, and be in conformity with all federal and state laws and local ordinances to commence an enterprise.

Section 9. Sex Change. Office funds shall not be used to pay for sex change surgery.

Section 10. Tools and Equipment. The eligible individual shall return tools, equipment, and supplies to the office when no longer used for the employment outcome.

Section 11. Training. Postsecondary training shall be provided for an eligible individual pursuant to this section.

(1) Except as provided in subsections (2) or (3) of this section, tuition and initial registration fees provided to the training facility of the eligible individual's choice shall not exceed those of the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation. The Director of Program Services or a designee may make exceptions if it is clearly demonstrated that exceptions are necessary to achieve the employment outcome as defined in 34 C.F.R. 361.5(b)(16).

(2) The office shall provide tuition and initial registration fees for postsecondary programs for the deaf recognized by the U.S. Congress as national programs due to the provision of essential support services (e.g., interpreting services, note-taking services, tutoring services).

(3) Other office approved postsecondary programs for the deaf offering interpreting services, note-taking services, and tutoring services shall be used if the total cost of attendance does not exceed the total cost of tuition, fees and interpreting services, note-taking services, and tutoring services at the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation.

(4) Training shall be purchased only from training facilities that are accredited or licensed by appropriate accrediting or licensing bodies and which comply with all applicable state and federal requirements.

(5) Training shall be provided only to attain entry level of the employment outcome.

(6) An eligible individual planning to attend a postsecondary training facility shall apply for all financial assistance available through the training facility.

Section 12. Computer Hardware and Software Purchases. (1) Except as provided in subsection (2) of this section or in Section 13 of this administrative regulation, the office shall not purchase a computer, microcomputer, other hardware or software for the personal use of an applicant or eligible individual.

(2) The office shall consider the provision or upgrade or replacement of computer hardware and software if:

(a) 1. The equipment is essential to compensate for the limitations caused by the disability; or

2. The equipment is required for the eligible individual to achieve or maintain a vocational objective of competitive employment; and

(b) One (1) or more of the following criteria are met:

1. The equipment is required for vocational preparation;

2. The equipment is required to perform the job and no provision is made by the employer to supply the equipment; or

3. The equipment enables an eligible individual to become competitive with nondisabled employees performing the same duties.

Section 13. Second Time Upgrades or Replacements. (1) Except as provided in subsection (2) of this section, the office shall not provide more than one (1) computer upgrade or replacement per individual.

(2) The office shall approve a second time upgrade or replacement if:

(a) The eligible individual has demonstrated a two (2) year continuous work history; and

(b) The eligible individual's employer attests that the upgrade or replacement is needed to maintain employment.

Section 14. Transplants or Implants. A transplant or implant procedure which is experimental or which does not have a consistent record of significant improvement in vocational functioning in better than fifty (50) percent of the subjects shall not be provided by the office.

Section 15. Vehicle Purchase. The office shall not purchase a vehicle unless the occupation of the eligible individual requires a vehicle as occupational equipment.

Section 16. Visual Impairments. An eligible individual with a secondary disability of visual impairment shall be served if another impairment, other than visual, results in a more substantial impediment to employment. (17 Ky.R. 782; Am. 1493; eff. 12-7-90; 19 Ky.R. 1428; 1802; eff. 3-4-93; 21 Ky.R. 551; eff. 10-6-94; 24 Ky.R. 2429; 25 Ky.R. 78; eff. 7-13-98; 33 Ky.R. 2152; 3166; eff. 5-4-2007.)